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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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| In the Matter of |) | |
| |) | |
| Federal State Joint Board on |) | CC Docket No. 96-45 |
| Universal Service |) | |
| |) | |
| Forward-Looking Mechanism for High Cost |) | CC Docket No. 97-160 |
| Support for Non-Rural LECs |) | |

PETITION FOR RECONSIDERATION

BellSouth Corporation on behalf of itself and its subsidiaries ("BellSouth") pursuant to Section 1.429 of the Commission's rules hereby requests the Commission to reconsider its *Fifth Report and Order*¹ in the above referenced proceeding.

I. INTRODUCTION

In the *Fifth Report and Order*, the Commission adopted a platform for a forward-looking cost model. The platform purportedly establishes a framework for those aspects of the model that are essentially fixed. The Commission leaves to subsequent action the selection of the inputs to be used in the model platform. Notwithstanding the significant questions and issues that remain unresolved, the Commission concludes that the model platform will allow the

¹ *In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Forward-Looking Mechanism for High Cost Support for Non-Rural LECs, CC Docket No. 97-160, Fifth Report and Order, FCC 98-279, released October 28, 1998. ("Fifth Report and Order")*

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Commission the ability to estimate the cost of building a telephone network to serve subscribers.²

As discussed below, the model platform specified by the Commission cannot be evaluated for reasonableness. The Commission has not made available the information necessary for affected carriers to make an informed assessment regarding the model and its ability to reasonably estimate forward-looking costs. It was premature to adopt the cost model. The Commission should have solicited public comment on the model platform subsequent to making the full documentation regarding the model's components available. Accordingly, the Commission should reconsider its adoption of the model platform.

II. DISCUSSION

The task of developing a cost model is difficult, complex and time-consuming. While the Commission is correct that it is a dynamic process, the prospect of continuing proceedings and the possibility of future changes³ does little to validate the model platform specified in the *Fifth Report and Order*. The reasonableness of a model must be predicated on its ability to produce results that are an accurate representation of real world conditions. Hence, a model's validity is not merely a theoretical construct, but also must include rigorous testing to insure that the model produces a rational output, *i.e.*, network costs that are reflective of serving customers in a given area.

The model platform adopted by the Commission is deficient in its documentation and explanation as well as the specification of the preliminary data used to develop the model. While

² *Id.* at ¶ 4.

³ *Id.* at ¶ 13.

such information purportedly has been posted on the FCC's website, the information that is actually available is incomplete. It is impossible for BellSouth or any other interested party to run the model based on the information that the Commission has made available thus far let alone test the model for accuracy and reasonableness.

In addition to the fact that there is insufficient information to test the model, there are parallel concerns that the model does not satisfy the Commission's own criteria for a cost model. In the May 8, 1997 *Universal Service Order*, the Commission established as one of the criteria that a forward-looking cost model was to satisfy the requirement that the "model and all underlying data, formulae, computations, and software associated with the model must be available to all interested parties for review and comment. All underlying data should be verifiable, engineering assumptions reasonable, and outputs plausible."⁴ Thus, to meet this criterion, interested parties should have access to the data that was relied on by the Commission in adopting the model so that they can verify the model's computations and results. Such data has not been made available.

Of particular concern is that in the *Fifth Report and Order* the Commission concluded that the model should use "accurate geocode data in the federal mechanism when available."⁵ The Commission stated its belief that a "reasonable source of verifiable geocode data can be determined at the inputs stage of this proceeding."⁶ The Commission further stated that "at a minimum, PNR's data is now available for review, and interested parties may comment upon and

⁴ *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8913 (1997). ("*Universal Service Order*")

⁵ *Fifth Report and Order* at ¶ 34.

⁶ *Id.*

suggest improvements to the accuracy of that database.”⁷ It is clear that the Commission predicated its specification for the use of geocode data in the model platform on two assumptions. First, it assumed that a reliable, public source of geocode data would be found by the time the cost model is implemented. The second assumption, which is equally important to the first, is that, in the interim, PNR data is available for review and that such data can be analyzed and evaluated in the context of the model platform. Only if this assumption holds true, can the cost model be validated or can the qualities necessary for a reliable, public data source of geocode data be discerned.

The fact of the matter is that the conditions attached to reviewing the PNR data are so onerous as to effectively render such data unavailable to the public. PNR considers its database as proprietary. Copies are not available. The database is only available for review at PNR’s location in Pennsylvania using PNR’s computers at a cost of \$3000 per computer, per day. Because of the complexity of the Commission’s model platform, BellSouth could not test the model for its nine states in a single day. Further, because the PNR data can only be examined on PNR’s premises at a considerable cost, there is no practical means to evaluate the data and suggest improvements as anticipated by the Commission. Accordingly, the model platform is insulated from any meaningful review by interested parties. As such, the Commission should reconsider its adoption of the model platform.

The validity of cost model platform is further called into question by the adoption of the HAI module for computing expenses and GSF.⁸ As the Commission observed, HAI excludes

⁷ *Id.*

⁸ *Id.* at ¶ 91.

marketing expenses from the calculation of customer operations expenses.⁹ Such exclusion, however, is inconsistent with the requirements that the Communications Act imposes on a carrier as a prerequisite to the receipt of universal service support. Before an eligible telecommunications carrier can receive federal universal service support, Section 214(e) of the Communications Act requires eligible carriers to advertise to the public the availability of services supported by the federal fund. Thus, eligible carriers incur non-discretionary marketing expenses related to the provision of universal service. To accurately estimate universal service costs, the cost model platform should include these non-discretionary marketing expenses. Accordingly, the Commission should reconsider its adoption of the HAI expense module and in its place substitute the BCPM expense module.¹⁰

⁹ *Id.* at ¶ 87.

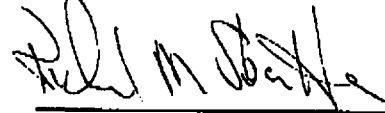
¹⁰ The Commission found that the HAI and BCPM modules were roughly comparable and that the BCPM module was more flexible. *Fifth Report and Order* at ¶ 91. Nevertheless, the Commission selected the HAI module because the Commission claimed that it had tested the model and that it provided accurate results. As discussed above, the HAI expense module is misspecified and hence, does not accurately estimate costs. Whatever perceived but unannounced practical benefits the Commission saw in the HAI module cannot outweigh the fact that the module does not properly measure costs.

WHEREFORE, the Commission should reconsider its *Fifth Report and Order* to the extent indicated above.

Respectively submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that I have this 18th day of December 1998 served the following parties to this action with a copy of the foregoing PETITION FOR RECONSIDERATION by hand delivery or by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed on the attached service list.


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